

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Sensa Verogna, Plaintiff,

v.

Twitter Inc., Defendant.

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Case #: **1:20-cv-00536-SM**

**PLAINTIFF'S REPLY AND MEMORANDUM OF LAW TO TWITTER, INC.'S
OBJECTION TO PLAINTIFF'S MOTION TO DECLARE TWITTER'S COMPUTER
NETWORK A PUBLIC FORUM UNDER LAW**

1. Plaintiff, respectfully Replies to Defendant's Objection [Doc. 26], to Plaintiffs Motion to Declare Twitter's Computer Network a Public Forum Under Law [Doc. 16]. Plaintiff also incorporates any Declaratory Act arguments set forth in [Doc. 19] and [Doc. 20]. In support of his reply to the objection, Plaintiff states as follows:

2. Defendants' Default is an admission of the facts cited in the Complaint, See Pitts ex rel. Pitts v. Seneca Sports, Inc., 321 F. Supp.2d 1353, 1357 (S.D. Ga. 2004); Nishimatsu Constr. Co. v. Houston Nat'l Bank, 515 F.2d 1200, 1204 (5th Cir. 1975), and is sufficient to establish Defendants liability on Plaintiffs stated legal theories in his claims. Here, the Plaintiff has established that Defendants were at the times alleged in the Complaint, a Public Accommodation, a Public Forum, and a State Actor under law, through the well pled facts in his Complaint.

19. Plaintiff's Claim III alleges that Defendant; 1) acting under the color of law in a public forum, and/or 2) operating a public forum and fulfilling functions ordinarily reserved to the state in a public forum, [Doc. 1 @ 166], deprived the Plaintiff of his Constitutional Rights to free speech, political speech and his right to assembly, [Doc. 1 @ 168], using viewpoint-based discriminatory acts to delete the Plaintiff's 2nd tweet and then using a race-based discriminatory Health Policy to ban the Plaintiffs account and access to speak or assemble in a public forum and also the banning

of access to governmental officials' DPF's accounts within their public forum, [Doc. 1 @ 172], by Twitter's bias, anti-white and non-white Workforce, causing injuries and damages. [Doc. 1 @ 173, 174]. Whether by state action or privately, each theory would strip Defendants of any 1st Amendment and 14th Amendment defenses and is not redundant or repetitious, but simply an alternate theory of the claims. The Plaintiff also submits, that even if the Court were to decide that there is no interdependent or symbiotic relationship between the private entity and the state government *Lloyd Corp. v. Tanner*, supra, and that Twitter was not a state actor, [Doc. 6 & 20], this does not mean that Twitter could not have violated the Plaintiff's constitutional rights as a private owner of a public forum. In deciding whether or not Twitter's computer network is a public forum, the Court should not only look at the nexus between Twitter and the State, but also how Twitter presents itself to the public and the political arenas.

4. For the reasons stated herein, and in the supporting memorandum of law, and the arguments brought in [Doc. 16], this Court should declare that Twitter's computer network is a Public Forum under the law, OR minimally, that it was, within the time frame of Plaintiff's Complaint.

Respectfully,


 /s/ Plaintiff, Anonymously as Sensa Verogna
 SensaVerogna@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July 2020, the foregoing document was made upon the Defendant, through its attorneys of record to Jonathan M. Eck jeck@orr-reno.com and Julie E. Schwartz, Esq., JSchwartz@perkinscoie.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Sensa Verogna, Plaintiff,)	
v.)	Case #: 1:20-cv-00536-SM
Twitter Inc., Defendant.)	

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S REPLY TO TWITTER,
INC.'S OBJECTION TO PLAINTIFF'S MOTION TO DECLARE TWITTER'S
COMPUTER NETWORK A PUBLIC FORUM UNDER LAW**

1. Plaintiff, files this Memorandum of Law in Support of its Reply to Twitter's Objection [Doc. 26], to Plaintiffs Motion to Declare Twitter's Computer Network a Public Forum Under Law [Doc. 16].

2. Like Plaintiff's previous Motions for Declaratory relief, Plaintiff has complied within the Federal Rules of Civil Procedure, does not feel that it is inappropriate or redundant and believes Twitter's Computer Network is a Public Forum Under the Law. The Plaintiff includes his declaratory relief arguments filed in [Doc. 5] (the "Public Accommodation Motion"); and [Doc. 6]. (the "State Actor Motion") into this reply and vis-versa.

3. Declaratory relief is appropriate where a litigant needs direction from a court before from taking future action. Such direction will afford the litigant relief from uncertainty or insecurity. See *Amer. Household Products, Inc. v. Evans Manufacturing, Inc.*, 139 F.Supp.2d 1235, 1239 (N.D. Al. 2001). And "Although 'the district court's discretion is broad, it is not unfettered.'" *St. Paul Ins. Co. v. Trejo*, 39 F.3d 585, 590 (5th Cir. 1994) (quoting *Travelers Ins. Co. v. La. Farm Bureau Fed'n, Inc.*, 996 F.2d 774, 778 (5th Cir. 1993))

4. "Since its inception, the Declaratory Judgment Act has been understood to confer on federal courts unique and substantial discretion in deciding whether to declare the rights of litigants." *Wilton v. Seven Falls Co.*, 515 U.S. 277, 286 (1995). Federal courts consequently have

29 broad discretion to grant or refuse declaratory judgment. See *Torch, Inc. v. LeBlanc*, 947 F.2d 193,
30 194 (5th Cir. 1991). As another judge in this district has explained, [t]he federal Declaratory
31 Judgment Act [“(DJA)”] does not create a substantive cause of action. A declaratory judgment
32 action is merely a vehicle that allows a party to obtain an early adjudication of an actual
33 controversy arising under other substantive law. ... [In sum, t]he DJA is an authorization, not a
34 command. It gives federal courts the competence to declare rights, but it does not impose a duty
35 to do so. *Klein v. Fed. Ins. Co.*, Nos. 7:03-cv-102-D & 7:09-cv-94-D, 2014 WL 4476556, at *9
36 (N.D. Tex. Sept. 11, 2014) (internal quotation marks omitted).

37 5. The goals of the Declaratory Judgment Act include: (i) relieving litigants of the old
38 common-law rule that a declaration of rights cannot be adjudicated unless the right has already
39 been violated; (ii) rendering practical help in ending controversies which have not reached a stage
40 where other legal relief is immediately available; (iii) settling uncertainties with respect to rights,
41 status, or other equitable and legal relationships; (iv) avoiding multiple suits; and (v) providing
42 clarity where technical or social changes have placed in doubt one’s rights, immunities, status, or
43 privileges. *Kendrick v. Everheart*, 390 So. 2d 53, 59 (Fla. 1980); *Roth v. The Charter Club, Inc.*,
44 952 So. 2d 1206, 1207 (Fla. 3d DCA 2007) (holding complaint for declaratory judgment on proper
45 interpretation of statute was sustainable); *Jackson v. Fed. Ins. Co.*, 643 So. 2d 56, 58 (Fla. 4th DCA
46 1994) (finding justiciable controversy on entitlement to disability benefits after training).

47 6. Florida law requires that the courts liberally construe and administer the application
48 and scope of Florida’s Declaratory Judgment Act, providing the Act with elastic and inclusive
49 boundaries, and liberally allowing a declaratory claim to continue where the plaintiff has pled the
50 elements for a cause of action. *Backus v. Howard W. Backus Towing, Inc.*, 391 So. 2d 378, 380–
51 81 (Fla. 3d DCA 1980) (reversing dismissal of counterclaim for declaratory relief where cause of

52 action pled, under requisite liberal construction and application); *Trafalgar Developers, Ltd. v.*
53 *Morley*, 305 So. 2d 274, 274–75 (Fla. 3d DCA 1974) (affirming trial court's retention of
54 jurisdiction over counterclaim for declaratory relief even after dismissing complaint); *Rigby v.*
55 *Liles*, 505 So. 2d 598, 600 (Fla. 1st DCA 1987) (reversing order granting dismissal of action for
56 declaratory relief in statute of limitations dispute where elements for relief were pled).

57 7. The uniform act authorizes the broader view, since the statute "provides that
58 'whether or not further relief is or could be claimed,' i. e., whether a coercive remedy like damages,
59 injunction or specific performance (1) is also claimed, (2) could be claimed but is not claimed, or
60 (3) could not be claimed, the declaratory judgment may not on that ground be denied. The New
61 York Court of Appeals recognized in *Woolard v. Schaffer Stores Co.*^{7 4} that "while resort to the
62 use of a declaratory judgment is usually unnecessary where an adequate remedy is already
63 provided by another form of action 'no limitation has been placed upon its use.'" *Borchard,*
64 *Declaratory Judgments* (1939) 9 *Brooklyn L. Rev.* 1, 6 *Current Legal Thought* 59. (1936) 272 *N.*
65 *Y.* 304, 5 *N. E.* (2d) 829.

66 8. To properly state a sustainable cause of action for declaratory relief, a complainant
67 must allege that (1) there is a bona fide dispute between the parties; (2) the complainant has a
68 justiciable question as to the existence or non-existence of some right, status, immunity, power, or
69 privilege, or some fact upon which their existence may depend; (3) the complainant is in doubt as
70 to the right, status, immunity, power, or privilege; and (4) there is a bona fide, actual, and present
71 need for the declaration. *May v. Holley*, 59 So. 2d 636 (Fla. 1952); *Romo v. Amedex Ins. Co.*, 930
72 So. 2d 643, 648 (Fla. 3d DCA 2006). All the antagonistic and adverse interests are all before this
73 court, and the relief sought is not merely the giving of legal advice by the courts or the answering

74 questions propounded from sheer curiosity. *City of Sarasota v. Mikos*, 613 So. 2d 566, 567 (Fla.
75 2d DCA 1993).

76 9. The test for sufficiency of a declaratory relief claim is not whether the claim shows
77 that the plaintiff will prevail, but whether there is a bona fide dispute and the plaintiff is entitled to
78 a declaration of rights. *Rigby*, 505 So. 2d. at 600; *Verdecia v. Am. Risk Assur. Co.*, 494 So. 2d
79 294, 294 (Fla. 3d DCA 1986) (reversing dismissal of complaint for declaratory relief); *Tavares v.*
80 *Allstate Ins. Co.*, 342 So. 2d 551, 553 (Fla. 3d DCA 1977) (holding that dispute over contract
81 coverage sustained an action for declaratory relief).

82 10. That the declaration of rights requested may result in a judgment against the
83 plaintiff does not destroy the plaintiff's right to such a declaration. *Tavares*, 342 So. 2d at 553.
84 Thus, a motion to dismiss a claim for declaratory relief can only be granted if the plaintiff failed
85 to establish the existence of any justiciable controversy; it is reversible error for a court to analyze
86 whether the plaintiffs would be entitled to a declaration in their favor. *Keen v. Fla. Sheriffs' Self-*
87 *Insurance Fund*, 854 So. 2d 844, 845 (Fla. 4th DCA 2003) (reversing order granting motion to
88 dismiss where court interpreted contract in granting motion);

89 11. Specifically, with regard to a pre-answer motion to dismiss a declaratory judgment
90 action, the only issue presented for consideration is "whether a cause of action for declaratory
91 relief is set forth, not . . . whether the plaintiff is entitled to a favorable declaration" (*North Shore*
92 *Towers Apts. Inc. v Three Towers Assoc.*, 104 AD3d 825, 827 [2013] [internal quotation marks
93 and citation omitted]; see *Hallock v State of New York*, 32 NY2d 599, 603 [1973]). However,
94 "where the court, deeming the material allegations of the complaint to be true, is nonetheless able
95 to determine, as a matter of law, that the Twitter is entitled to a declaration in his or her favor, the
96 court may enter a judgment making the appropriate declaration" (*DiGiorgio v* 1109-1113

Manhattan Ave. Partners, LLC, 102 AD3d 725, 728 [2013]), See Matter of Dashnaw v Town of Peru, NY Sip Op 07913 [111 AD3d 1222].

12. "The federal Declaratory Judgment Act is procedural. *Farmers Alliance Mut. Ins. Co. v. Jones*, 570 F.2d 1384, 1386 (10th Cir. 1978). It "does not create substantive rights for parties ... [but] merely provides another procedure whereby parties may obtain judicial relief." *Martinez v. City of Santa Fe*, No. 14-cv-0016 SMV/KBM, 4 (D.N.M. Sep. 24, 2014)

13. "It does not hold that the fact that a plaintiff is not entitled to a favorable declaration is a proper basis for the exercise of the trial court's discretion But the fact that the party seeking to set the judicial machinery in motion is on the wrong side of a controversy cannot be ascertained prior to the court's consideration and determination thereof, and it cannot be said that a declaration embodying that determination would not be necessary or proper merely because the plaintiff entertained a misconception of law. Thus, as previously noted, it has been held that where the plaintiff is not entitled to a favorable declaration, the court should render a judgment embodying such determination and should not merely dismiss the action. (*Anderson, Declaratory Judgments*, p. 271.)" (*Maguire, supra*, at pp. 730-731.) *Patel v. Athow*, [Civ. No. 31887. Court of Appeals of California, First Appellate District, Division Four. October 23, 1973.]

14. There are no parallel proceedings underway in any state court that would provide for ventilation of the issues.) as described in *Wilton v. Seven Falls Co.*, 515 U.S. 277, 282 (1995). No constitutional grounds are being sought regarding constitutionality of government conduct. *El Dia, Inc. v. Hernandez Colon*, 963 F.2d 488, 494 (1st Cir. 1992) suggesting that adjudicating constitutional rights in declaratory actions is never appropriate.

15. The First Circuit concluded that the controversy between Arkema and Honeywell regarding the '120 and '882 patents is "of sufficient immediacy and reality to warrant the issuance

of a declaratory judgment." *MedImmune*, 549 U.S. at 127, 127 S.Ct. 764. *Arkema Inc. v. Honeywell Int'l., Inc.*, 706 F.3d 1351, 1356 (Fed. Cir. 2013) (quoting S. Rep. No. 73-1005, at 2-3 (1934)). And unlike *Zajac, LLC v. Walker Indus.*, No. 2:15-cv-507-GZS, 2016 WL 3962830, at *6-7 (D. Me. July 21, 2016), the Plaintiff here, does seek a declaratory remedy from the Court that would clarify and advance the resolution of the dispute(s) between Twitter and himself. *Curran v. Camden Nat'l Corp.*, 477 F. Supp. 2d 247 (D. Me. 2007). Additionally, the Plaintiff cannot find the *Trans v. Bank* or *Saenz v. Rod's Prod. Servs., LLC* cases proffered by Twitter and thus cannot comment on their relations to this case.

16. Plaintiff agrees that his latest motion for declaratory relief is not a motion for summary judgment and therefore not improper or premature at this stage of the litigation. And, if in fact the Plaintiff has chosen the wrong legal mechanism to bring forth these declaratory motions, the Court should not just summarily dismiss them. And, if not answered by the Court, how will the Plaintiff know whether or not he can in fact make proper Constitutional claims against a private company for operating what the Plaintiff believes to be a Public Forum. Without the Courts answer, Plaintiff is left in the dark as to how to proceed with his Constitutional Claims as there are unanswered questions of law that need to be answered by a judge.

17. Here, the relief Plaintiff seeks—a declaration that Twitter is a “public forum”—is a necessary component of his Constitutional claims in Claim III. It most certainly would not be a waste of judicial resources as the horse must be put back in front of the kart if in fact the Plaintiff misconstrued the legal mechanisms of which motions or actions to bring first.

18. The Plaintiff agrees, in part, that the “public does not generally have a First Amendment right to access private property for expression.” or nor “does property lose its private character merely because the public is generally invited to use it for designated purposes.” *Lloyd*

143 Corp. v. Tanner, 407 U.S. 551, 569 (1972). Or simply because Twitter has many users that create
144 or share content, alone, does not transform a private social media company into a public forum.
145 Fed. Agency of News LLC v. Facebook. The Plaintiff does not claim that Twitter would
146 “transform” into a state actor solely by providing a forum for speech as in *Prager v. Google*. And
147 that Twitter, as well as being a state actor, owns a computer network that is a “public forum” within
148 the meaning of the First Amendment. And contrary to Twitters arguments, the Ninth Circuit has
149 not interpreted § 230 to grant immunity for causes of action alleging constitutional violations.
150 *Roommates.Com*, 521 F.3d at 1164.

151 19. Twitter, in its Objection relies on the inapplicable notion that only state actors can
152 provide a forum for speech, [Doc. 26], completely ignoring the relationship between the First
153 Amendment and the modern Internet. This case does not concern obscenity or any other form of
154 unprotected speech, it concerns free and political speech that strikes at the heart of the First
155 Amendment. “[N]either property rights nor contract rights are absolute. . . . Equally fundamental
156 with the private right is that of the public to regulate it in the common interest. *PruneYard*, id. 74.
157 And it is well established that private companies may establish public fora in certain
158 circumstances. *Cornelius v. NAACP Legal Defense & Educ. Fund, Inc.*, 473 U.S. 788, 801 (1985).
159 The fact that Twitter is a private company does not mean the First Amendment is inapplicable to
160 users’ Twitter accounts. The key question is whether the user has opened up a forum for expressive
161 activity to the public. See *Packingham v. North Carolina*, 137 S. Ct. 1730, 1736 (2017).

162 20. The guarantees of the First Amendment are effectuated against potential state
163 interference through the Fourteenth Amendment by limiting the extent to which states can restrict
164 individuals in the exercise of rights of speech and assembly. Alleged here, a private computer
165 network was acting under the authority of state government. Hence, the state nexus requirement

166 that triggers the application of the First Amendment is not readily met in the case of a private
167 computer network. See, e.g., *Grafton v. Brooklyn Law School*, 478 F.2d 1137, 1143 (2 Cir.1973);
168 *Blackburn v. Fisk Univ.*, 443 F.2d 121, 123 (6 Cir.1971); see generally Annot., "Action of Private
169 Institution of Higher Education as Constituting State Action, or Action Under Color of Law, for
170 Purposes of Fourteenth Amendment and 42 U.S.C.A. § 1983," 37 A.L.R.Fed. 601 (1978). Under
171 the nexus analysis, a government "can be held responsible for a private decision only when it has
172 exercised coercive power or has provided such significant encouragement, either overt or covert,
173 that the choice must in law be deemed to be that of the State." *San Francisco Arts & Athletics,*
174 21. *Inc. v. United States Olympic Committee*, 483 U.S. 522, 546, 107 S. Ct. 2971, 2986,
175 97 L. Ed. 2d 427 (1987), quoting *Blum v. Yaretsky*, 457 U.S. at 1004, 102 S.Ct. at 2786. Indeed,
176 "the party seeking to establish that action of a private party violated the Constitution must be able
177 to point to the specific act or actions of the government which in fact motivated the private action."
178 *Ponce*, 760 F.2d at 378 (citation omitted); see also *Cohen v. President and Fellows of Harvard*
179 *College*, 568 F. Supp. 658, 660 (D.Mass.1983) (Tauro, J.) (nexus analysis "focus[es] on whether
180 the challenged action of the private entity was compelled or influenced by the government."). In
181 the present case, the plaintiff has offered evidence of such involvement by Congress in the decision
182 by Twitter to ban Plaintiff's 2nd tweet and the subsequent banning of his account or access to a
183 public forum.

184 22. [i]t is, of course, well-established that a State in the exercise of its police power
185 may adopt reasonable restrictions on private property so long as the restrictions do not amount to
186 a taking without just compensation.... To protect free speech and petitioning is a goal that surely
187 matches the protecting of health and safety, the environment, aesthetics, property values and other
188 societal goals that have been held to justify reasonable restrictions on private property rights.

[Robins v. Prune Yard Shopping Center, supra, 23 Cal.3d at 908, 592 P.2d at 346, 153 Cal. Rptr. at 859.] The California Supreme Court has also found that such restrictions upon private property could properly be imposed in order to protect the rights of free speech and petition, viz: State v. Schmid, 84 N.J. 535, 567 (1980). In Supreme Court cases, such as Marsh v. Alabama, supra; Lloyd Corp. v. Tanner, supra, and Prune Yard Shopping Center v. Robins, supra, all recognize generally that the more private property is devoted to public use, the more it must accommodate the rights which inhere in individual members of the general public who use that property. Since it is our State Constitution which we are here expounding, it is also fitting that we look to our own strong traditions which prize the exercise of individual rights and stress the societal obligations that are concomitant to a public enjoyment of private property. See Vasquez v. Glassboro Service Ass'n, supra, *563 83 N.J. at 100-101; State v. Shack, supra, 58 N.J. at 305-308; Zelenka v. Benevolent & Protective Order of Elks, supra, 129 N.J. Super. at 386-387.

23. Notwithstanding the primary thrust of the First Amendment against state governmental interference with expressional freedoms, the guarantees of this Amendment may under appropriate conditions be invoked against nongovernmental bodies. In particular settings, private entities, including educational institutions or in this case, computer networks, may so impact upon the public or share enough of the essential features of governmental bodies as to be engaged functionally in "state action" for First Amendment purposes. The more focused inquiry therefore must be turned to those circumstances that can subject an entity of essentially nongovernmental or private character to the requirements imposed by the First Amendment. State v. Schmid, 84 N.J. 535, 567 (1980). New Hampshire Courts have construed Part I, Article 22 of the New Hampshire Constitution to be more protective than the First Amendment of the United States Constitution in the context of time, place, and manner restrictions and have employed the

212 same standard to assess the constitutionality of these types of restrictions as is used under the
213 Federal Constitution. *Biondolillo*, 164 N.H. at 373; *Doyle*, 163 N.H. at 221. Those focusing upon
214 the scope of the public's invitation and the nature of the expressional activities in relation to the
215 use of private property, the applicability of the First Amendment is less clear. This question brings
216 us to the heart of the problem the need to balance within a constitutional framework legitimate
217 interests in private property with individual freedoms of speech and assembly *State v. Schmid*, 84
218 N.J. 535, 567 (1980).

219 24. Nevertheless, as private property becomes, on a sliding scale, committed either
220 more or less to public use and enjoyment, there is actuated, in effect, a counterbalancing between
221 expressional and property rights. *Marsh v. Alabama*, supra, 326 U.S. at 506, 66 S.Ct. at 278, 90
222 L.Ed. at 268. *State v. Schmid*, held that under the State Constitution, the test to be applied to
223 ascertain the parameters of the rights of speech and assembly upon privately owned property and
224 the extent to which such property reasonably can be restricted to accommodate these rights
225 involves several elements. This standard must take into account (1) the nature, purposes, and
226 primary use of such private property, generally, its "normal" use, (2) the extent and nature of the
227 public's invitation to use that property, and (3) the purpose of the expressional activity undertaken
228 upon such property in relation to both the private and public use of the property. This is a multi-
229 faceted test which must be applied to ascertain whether in a given case owners of private property
230 may be required to permit, subject to suitable restrictions, the reasonable exercise by individuals
231 of the constitutional freedoms of speech and assembly.

232 25. Thus, in balancing the right of Twitter to possess and protect its property against
233 the Plaintiffs' freedom of expression in view of the particular activity being conducted in its public
234 forum, the Court should determine that the right of expression should prevail. Similarly, in *State*

235 v. Schmid, 84 N.J. 535, 423 A.2d 615 (1980), appeal dismissed sub nom. In Princeton University
236 v. Schmid, it was held that Princeton University, a private institution, could not, in view of state
237 constitutional guarantees, arbitrarily deny political activists permission to disseminate information
238 peacefully in a reasonable manner where the University had a policy of encouraging public
239 political debate on its property. Campaign v. Connecticut General Life Insurance Co., 515 A. 2d
240 1331 (Pa. 1986) A traditional public forum is a forum which "by long tradition or by governmental
241 fiat [has] been devoted to assembly and debate...." Perry Education Assn. v. Perry Local Educators'
242 Assn., 460 U.S. 37, 45, 103 S. Ct. 948, 954, 74 L. Ed. 2d 794 (1983).

243 26. Whether speech is constitutionally protected requires an analysis of whether the
244 "speech is of public or private concern, as determined by all the circumstances of the case,"
245 including whether the challenged activities take place in a traditional public forum. *Id.* at 1215.
246 The Plaintiff should have the right to speak freely on the very subjects being discussed publicly
247 on Twitters public forum as they can't invite numerous politicians, other users to speak and express
248 their views, or express views themselves, and then arbitrarily (discriminatory) deny the plaintiff
249 an opportunity to express himself freely on the same subjects. (See Attached Declaration, Exhibit
250 A 1-36). Hence, the Plaintiff suffered a constitutional impairment of his Federal and State
251 constitutional rights of speech and assembly and his banning should be undone. "Speech deals
252 with matters of public concern when it can be fairly considered as relating to any matter of political,
253 social, or other concern to the community" *Id.* at 1216. Speech on matters of public concern
254 "is at the heart of the First Amendment's protection." *Id.* at 1215 (quotation omitted). "That is
255 because speech concerning public affairs is more than self-expression; it is the essence of self-
256 government." Indeed, the Supreme Court has concluded that the content of protected speech
257 "cannot be restricted simply because it is upsetting or arouses contempt."

258 27. The nature, purpose, and generally, its "normal" or primary use of Twitters private
259 property Computer Network is to; "serve the public conversation" and is a "global town square"
260 and has an "important role in our democracy and governments around the world. In the United
261 States, all 100 Senators, 50 governors, and nearly every member of the House of Representatives
262 currently reach their constituents through Twitter accounts." [Doc. 1, Exhibit Q-1]. Twitter is
263 dependent upon public access and itself acknowledges that many people use Twitter as a digital
264 public square. [Doc. 1, Exhibit Q-2 @ 243]. Twitter also holds itself out to the public as a
265 community resource and partners with news organizations on a regular basis to live-stream
266 congressional hearings and political events, providing the public access to important developments
267 in our democracy. The notion that Twitter would silence any political perspective is antithetical to
268 our commitment to free expression. Exhibit Q-1. Pg. 2. Exhibit Q-2, @ 238.

269 28. Twitter opened up their social media site to other's speech, by allowing members
270 of the public to enter its facilities and enter and post on their computer network and allowed their
271 computer network to be used as a public forum for a public official of national prominence and
272 the purpose of the expressional activity undertaken upon Twitters Computer Network is entirely
273 for the publics or the Governments use of the property.

274 29. Twitter has a policy of encouraging public political debate on its Computer
275 Network. Twitter enabled the White House and media broadcasters to have a dynamic experience
276 on Twitter, publishing and promoting live video event pages to millions of people on Twitter
277 during President Trump's State of the Union address in 2017. In total, more than 39 media
278 broadcasters including ABC, Bloomberg, CBS, Fox News, PBS NewsHour, Reuters, Univision,
279 and USA Today participated. Additionally, the White House and Senate GOP both published the
280 entire live video on Twitter reaching over 3.4 million viewers. Doc. 1, Exhibit Q-1.

30. So when Twitter invites former US Secretary of State Madeleine Albright [Attached Declaration, Exhibit A-27], or Tulsi Gabbard [Doc. 1, Exhibit] to its Washington DC facility to speak about political issues such as the death penalty, to a live event at Twitter, or when Twitter hosts a live event from Atlanta facility with Rep John Lewis speaking about Black Lives Matter, or when Twitter tweets out that it supports the Black Caucus to talk about equal access for citizens, [Attached Declaration, Exhibit A-28], or allows other political or government officials to post political statements or opinions concerning, Gun Control, [Attached Declaration, Exhibit A-29], death sentencing, [Attached Declaration, Exhibit A-30], health care and unemployment, [Attached Declaration, Exhibit A-31], Black Lives Matter, [Att. Declaration, Exhibit A-32] it opens itself up to free or political speech in that same forum.

31. By its continuous invitation to politicians, government officials and to the public, Twitter has created an atmosphere ripe for free speech and political debate and the discriminatory denial of access to the Plaintiff because of his race and strong political views regarding the death penalty for traitors, was improper.

Respectfully,


 /s/ Plaintiff, Anonymously as Sensa Verogna
 SensaVerogna@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July 2020, the foregoing document was made upon the Defendant, through its attorneys of record to Jonathan M. Eck jeck@orr-reno.com and Julie E. Schwartz, Esq., JSchwartz@perkinscoie.com

**DECLARATION IN SUPPORT OF PLAINTIFF'S REPLY TO TWITTER, INC.'S
OBJECTION TO PLAINTIFF'S MOTION TO DECLARE TWITTER'S COMPUTER
NETWORK A PUBLIC FORUM UNDER LAW**

Case #: 1:20-cv-00536-SM

Plaintiff, proceeding anonymously as Sensa Verogna, provides as follows:

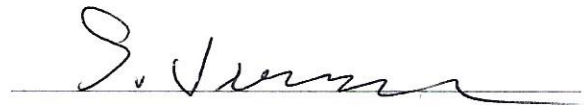
I, Sensa Verogna, hereby declare as follows:

1. I am a New Hampshire resident over eighteen and have personal knowledge of facts below. If called upon to testify, I could and would testify competently as to the matters contained herein.

2. The resident States of all information described in the PLAINTIFF'S REPLY AND MEMORANDUM OF LAW TO TWITTER, INC.'S OBJECTION TO PLAINTIFF'S MOTION TO DECLARE TWITTER'S COMPUTER NETWORK A PUBLIC FORUM UNDER LAW, were obtained by public records conducting google searches and the relevant government and public sites.

3. Attached EXHIBIT A, is a collection of Twitter Inc.

I declare under penalty of perjury that the foregoing is true and correct. Signed this 6th day of July 2020 in the State of New Hampshire.



/s/ Anonymously as Sensa Verogna

SensaVerogna@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July 2020, I have contracted the foregoing Declaration, to be served in hand, directly to the agent of record for Twitter Inc., The Corporation Trust Company Corporation, Trust Center, 1209 Orange Street, Wilmington, DE 19801.

EXHIBIT A- Twitter Public Policy, @Policy

CONSTITUTIONAL ISSUES



EXHIBIT A-1



EXHIBIT A-2

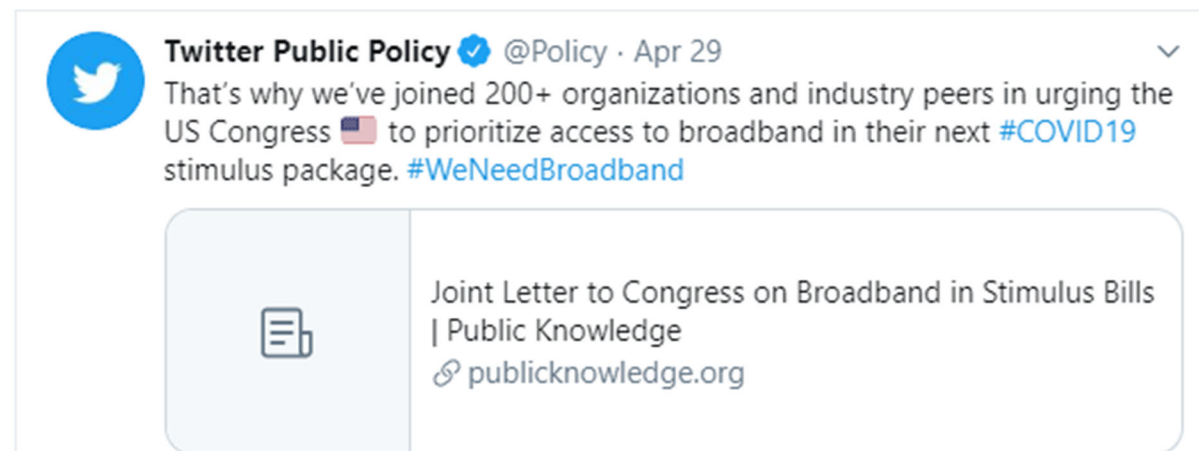


EXHIBIT A-3



EXHIBIT A-4

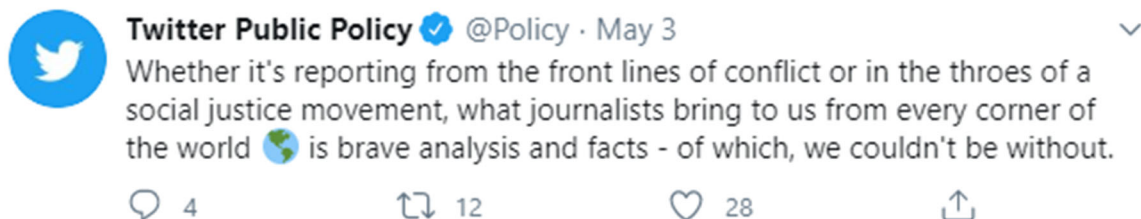


EXHIBIT A-5



EXHIBIT A-6



EXHIBIT A-7

IMMIGRATION ISSUES



EXHIBIT A-8



EXHIBIT A-9



EXHIBIT A-10



EXHIBIT A-11



EXHIBIT A-12



EXHIBIT A-13



Twitter Public Policy ✓ @Policy · Dec 5, 2019

Collecting social media identifiers from visa applicants, including personal Twitter handles, has a chilling effect on that conversation. For these reasons, we remain strongly opposed to the U.S. Department of State's social media registration requirements.

EXHIBIT A-14

HUMAN RIGHTS ISSUES



Twitter Public Policy ✓ @Policy · Dec 9, 2019

We hope 2020 brings more openness & willingness from governments to permit & empower public conversation online. At Twitter, we'll continue to [#StandUp4HumanRights](#).

EXHIBIT A-15



Twitter Public Policy ✓ @Policy · Dec 9, 2019

2019 has been an historic year of public activism, protest, and holding power to account. From Hong Kong to Venezuela and beyond, we're humbled to stand shoulder to shoulder with activists and NGOs who use Twitter to fight for our [#HumanRights](#). 🙌

EXHIBIT A-16



Twitter Public Policy ✓ @Policy · Dec 9, 2019

Empowering voices to join the public conversation is core to Twitter's mission. 🌍🌍🌍

It is a mission that we celebrate on [#HumanRightsDay](#) — and strive to carry out every day.

[Show this thread](#)

EXHIBIT A-17

VOTING



Twitter Public Policy ✓ @Policy · Feb 11

The [#2020Census](#) is a vital, participatory process. We're working w/ [@uscensusbureau](#) to ensure the conversation around this civic event remains healthy, including the launch of a search prompt to point people to the authoritative source of information.

EXHIBIT A-18

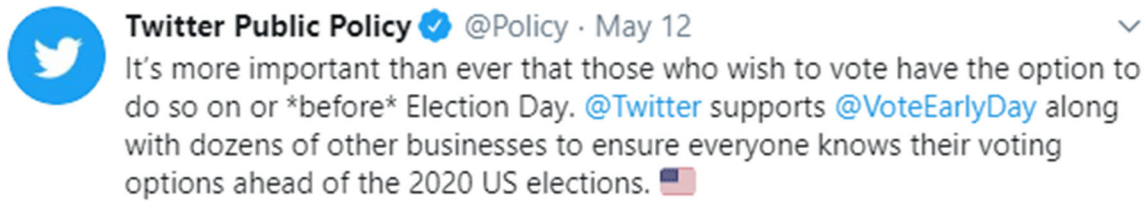


EXHIBIT A-19

WORLD POLITICS

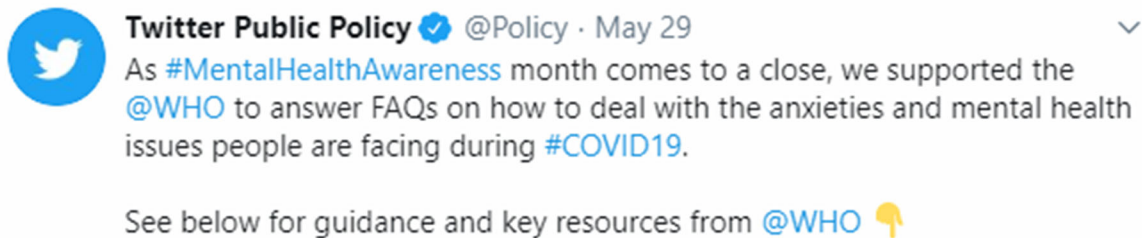


EXHIBIT A-20



EXHIBIT A-21



EXHIBIT A-22



EXHIBIT A-23

ENVIRONMENTAL ISSUES



EXHIBIT A-24



EXHIBIT A-25



EXHIBIT A-26

OTHER POLITICAL ISSUES



EXHIBIT A-27

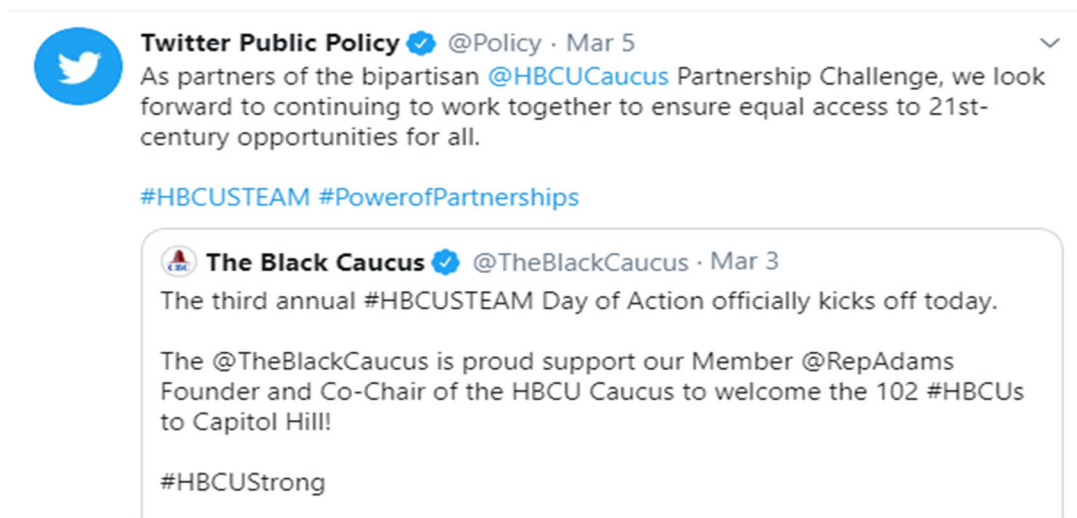


EXHIBIT A-28

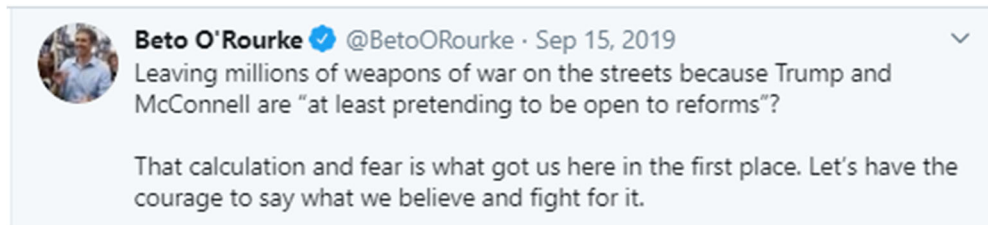


EXHIBIT A-29

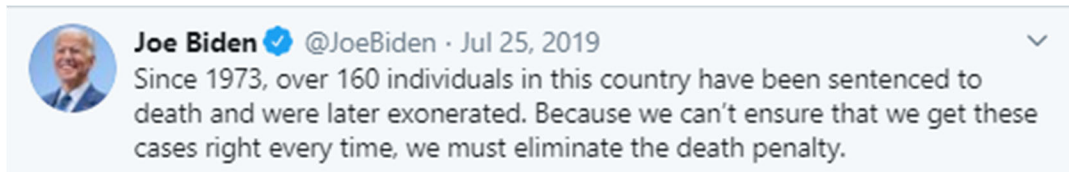


EXHIBIT A-30

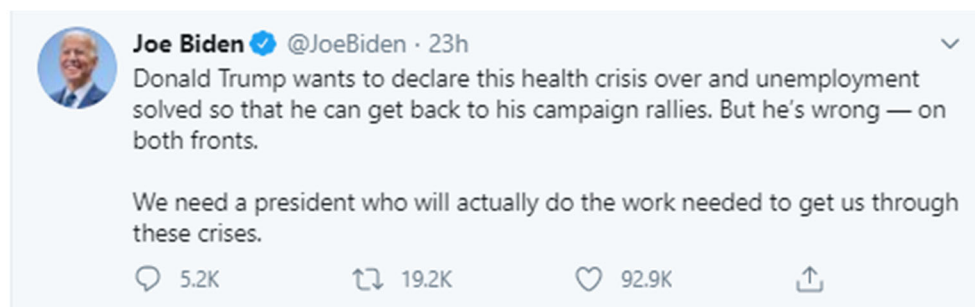


EXHIBIT A-31



EXHIBIT A-32

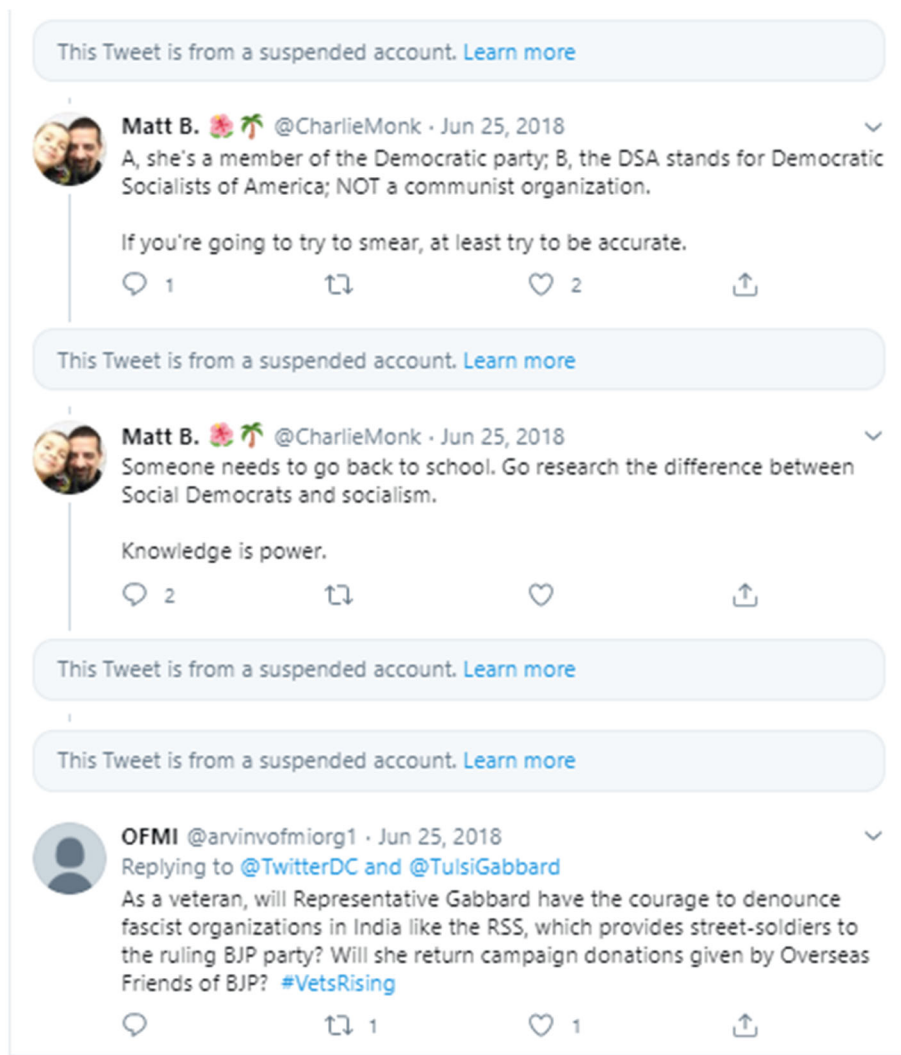


EXHIBIT A-33